

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION - DEPARTMENT B
FRESNO DIVISION - DEPARTMENT A

**PROCEDURES FOR DISCLOSURE STATEMENT
AND CONFIRMATION HEARINGS**

This outline of procedures is intended to assist counsel in preparing for disclosure statement and confirmation hearings. These procedures are not, however, inflexible. The court may modify them to accommodate the needs of counsel and any particular Chapter 11 case.

1. Disclosure Hearings

Prior to the disclosure hearing the court reviews each proposed disclosure statement (whether or not objections have been filed). Accordingly, counsel are requested to notify the courtroom deputy clerk (Department B, Sacramento) or chambers (Department A, Fresno) at least two (2) court days prior to the scheduled hearing if the disclosure hearing will be continued.

The court may present a checklist of deficiencies in the proposed disclosure statement at the disclosure hearing. Assuming no other objections have been filed and depending on the extent of the revisions required, the court will either continue the disclosure hearing or allow conditional approval of the disclosure statement. When the court has conditionally approved the disclosure statement, the plan proponent will need to present an amended disclosure statement together with a proposed order approving the disclosure statement that conforms to Official Form 13.

If the plan proponent intends to amend its proposed disclosure statement in response to objections that have been filed, a "red-lined" version of the amended disclosure statement should be filed with the court and circulated to opposing counsel at least one (1) court day prior to the scheduled disclosure hearing. If the plan proponent will require a continuance to prepare the amended disclosure statement, it should notify opposing counsel and the court in advance of the disclosure hearing. If objections cannot be resolved by stipulation and/or amendment of the proposed disclosure statement, the court will consider any unresolved objections at the disclosure hearing.

Once a disclosure statement has been approved, the court will schedule the confirmation hearing at the conclusion of the disclosure hearing. The plan proponent should prepare a proposed order approving the disclosure statement that conforms to Official Form 13 with the dates supplied by the court at the disclosure hearing.

2. Confirmation Hearings

Prior to confirming any proposed plan of reorganization, the court will require evidence of compliance with each requirement of 11 U.S.C. § 1129(a) and, when applicable, § 1129(b). Counsel are cautioned that a class that has not voted on the plan is deemed to have rejected it. In re M. Long Arabians, 103 B.R. 211, 215-16 (9th Cir. BAP 1989).

A completed tabulation of ballots should be filed by the plan proponent two (2) court days prior to the confirmation hearing. If no objections to confirmation have been filed, the plan proponent should also file declarations in support of confirmation that address the elements of section 1129.

If objections to confirmation have been filed, the court will normally treat the confirmation hearing as a scheduling conference. At that hearing, the court will establish a briefing schedule, if appropriate, and a further evidentiary hearing during which live testimony may be presented.

If the objecting parties and the plan proponent so stipulate, the objections may be resolved based on written evidence and briefs filed with the court prior to the confirmation hearing. The court will also allow live testimony and cross-examination, time permitting, at the initial confirmation hearing upon stipulation of the parties.